

104TH CONGRESS
1ST SESSION

S. 536

To authorize the Secretary of the Interior to consolidate the surface and subsurface estates of certain lands within 3 conservation system units on the Alaska Peninsula, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 1 (legislative day, MARCH 6), 1995

Mr. MURKOWSKI (for himself and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To authorize the Secretary of the Interior to consolidate the surface and subsurface estates of certain lands within 3 conservation system units on the Alaska Peninsula, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Alaska Peninsula Sub-
5 surface Consolidation Act of 1995”.

6 **SEC. 2. DEFINITIONS.**

7 As used in this Act:

8 (1) AGENCY.—The term agency—

1 (A) means—

2 (i) any instrumentality of the United
3 States; and

4 (ii) any Government corporation (as
5 defined in section 9101(1) of title 31,
6 United States Code); and

7 (B) includes any element of an agency.

8 (2) ALASKA NATIVE CORPORATION.—The term
9 “Alaska Native Corporation” has the same meaning
10 as is provided for “Native Corporation” in section
11 3(m) of the Alaska Native Claims Settlement Act
12 (43 U.S.C. 1602(m)).

13 (3) KONIAG.—The term “Koniag” means
14 Koniag, Incorporated, which is a Regional Corpora-
15 tion.

16 (4) KONIAG ACCOUNT.—The term “Koniag Ac-
17 count” means the account established under section
18 4.

19 (5) PROPERTY.—The term “property” has the
20 same meaning as is provided in section 12(b)(7)(vii)
21 of Public Law 94–204 (43 U.S.C. 1611 note).

22 (6) REGIONAL CORPORATION.—The term “Re-
23 gional Corporation” has the same meaning as is pro-
24 vided in section 3(g) of the Alaska Native Claims
25 Settlement Act (43 U.S.C. 1602(g)).

1 (7) SECRETARY.—Except as otherwise provided,
2 the term “Secretary” means the Secretary of the In-
3 terior.

4 (8) SELECTION RIGHTS.—The term “selection
5 rights” means those rights granted to Koniag, pur-
6 suant to subsections (a) and (b) of section 12, and
7 section 14(h)(8), of the Alaska Native Claims Settle-
8 ment Act (43 U.S.C. 1611 and 1613(h)(8)), to re-
9 ceive title to the oil and gas rights and other inter-
10 ests in the subsurface estate of the approximately
11 275,000 acres of public lands in the State of Alaska
12 identified as “Koniag Selections” on the map enti-
13 tled “Koniag Interest Lands, Alaska Peninsula”,
14 dated May 1989.

15 **SEC. 3. ACQUISITION OF KONIAG SELECTION RIGHTS.**

16 (a) The Secretary shall determine, pursuant to sub-
17 section (b) hereof, the value of Selection Rights which
18 Koniag possesses within the boundaries of Aniakchak Na-
19 tional Monument and Preserve, Alaska Peninsula National
20 Wildlife Refuge, and Becharof National Wildlife Refuge.

21 (b) VALUE.—

22 (1) IN GENERAL.—The value of the selection
23 rights shall be equal to the fair market value of—

1 (A) the oil and gas interests in the lands
2 or interests in lands that are the subject of the
3 selection rights; and

4 (B) in the case of the lands or interests in
5 lands for which Koniag is to receive the entire
6 subsurface estate, the subsurface estate of the
7 lands or interests in lands that are the subject
8 of the selection rights.

9 (2) APPRAISAL.—

10 (A) SELECTION OF APPRAISER.—

11 (i) IN GENERAL.—Not later than 90
12 days after the date of enactment of this
13 Act, the Secretary and Koniag shall meet
14 to select a qualified appraiser to conduct
15 an appraisal of the selection rights. Sub-
16 ject to clause (ii), the appraiser shall be se-
17 lected by the mutual agreement of the Sec-
18 retary and Koniag.

19 (ii) FAILURE TO AGREE.—If the Sec-
20 retary and Koniag fail to agree on an ap-
21 praiser by the date that is 60 days after
22 the date of the initial meeting referred to
23 in clause (i), the Secretary and Koniag
24 shall, by the date that is not later than 90
25 days after the date of the initial meeting,

1 each designate an appraiser who is quali-
2 fied to perform the appraisal. The 2 ap-
3 praisers so identified shall select a third
4 qualified appraiser who shall perform the
5 appraisal.

6 (B) STANDARDS AND METHODOLOGY.—

7 The appraisal shall—

8 (i) be conducted in conformity with
9 the standards of the Appraisal Foundation
10 (as defined in section 1121(9) of the Fi-
11 nancial Institutions Reform, Recovery, and
12 Enforcement Act of 1989 (12 U.S.C.
13 3350(9)); and

14 (ii) utilize risk adjusted discounted
15 cash flow methodology.

16 (C) SUBMISSION OF APPRAISAL REPORT.—

17 Not later than 180 days after the selection of
18 an appraiser pursuant to subparagraph (A), the
19 appraiser shall submit to the Secretary and to
20 Koniag a written appraisal report specifying the
21 value of the selection rights and the methodol-
22 ogy used to arrive at the value.

23 (3) DETERMINATION OF VALUE.—

24 (A) DETERMINATION BY THE SEC-
25 RETARY.—Not later than 60 days after the date

1 of the receipt of the appraisal report under
2 paragraph (2)(C), the Secretary shall determine
3 the value of the selection rights and shall notify
4 Koniag of the determination.

5 (B) ALTERNATIVE DETERMINATION OF
6 VALUE.—

7 (i) IN GENERAL.—Subject to clause
8 (ii), if Koniag does not agree with the
9 value determined by the Secretary under
10 subparagraph (A), the procedures specified
11 in section 206(d) of the Federal Land Pol-
12 icy and Management Act of 1976 (43
13 U.S.C. 1716(d)) shall be used to establish
14 the value.

15 (ii) AVERAGE VALUE LIMITATION.—
16 The average value per acre of the selection
17 rights shall not be more than \$300.

18 **SEC. 4. KONIAG ACCOUNT.**

19 (a) IN GENERAL.—

20 (1) The Secretary shall enter into negotiations
21 for an agreement or agreements to exchange Federal
22 lands or interests therein which are in the State of
23 Alaska for the Koniag Selection Rights referred to
24 in section 3.

1 (2) If the value of the Federal lands to be ex-
2 changed is less than the value of the Koniag Selec-
3 tion Rights established in section 3, then the Sec-
4 retary may exchange the Federal lands for an equiv-
5 alent portion of the Koniag Selection Rights. The re-
6 maining selection rights shall remain available for
7 additional exchanges.

8 (3) For purposes of this section, the term
9 “Federal lands” means lands or interests therein lo-
10 cated in Alaska, administered by the Secretary and
11 the title to which is in the United States but exclud-
12 ing all lands and interests therein which are located
13 within a conservation system unit as defined in the
14 Alaska National Interest Lands Conservation Act
15 section 102(4).

16 (b) ACCOUNT.—

17 (1) IN GENERAL.—With respect to any Koniag
18 Selection Rights for which an exchange has not been
19 completed by October 1, 2004 (hereafter in this sec-
20 tion referred to as “remaining selection rights”), the
21 Secretary of the Treasury, in consultation with the
22 Secretary, shall, notwithstanding any other provision
23 of law, establish in the Treasury of the United
24 States, an account to be known as the Koniag Ac-
25 count. Upon the relinquishment of the remaining se-

lection rights to the United States, the Secretary shall credit the Koniag Account in the amount of the appraised value of the remaining selection rights.

(2) INITIAL BALANCE.—The initial balance of the Koniag Account shall be equal to the value of the selection rights as determined pursuant to section 3(b).

(3) USE OF ACCOUNT.—

(A) IN GENERAL.—Amounts in the Koniag Account shall—

(i) be made available by the Secretary of the Treasury to Koniag for bidding on and purchasing property sold at public sale, subject to the conditions described in this paragraph; and

(ii) remain available until expended.

(B) ASSIGNMENT.—

(i) IN GENERAL.—Subject to clause (ii) and notwithstanding any other provision of law, the right to request the Secretary of the Treasury to withdraw funds from the Koniag Account shall be assignable in whole or in part by Koniag.

(ii) NOTICE OF ASSIGNMENT.—No assignment shall be recognized by the Sec-

1 retary of the Treasury until Koniag files
2 written notice of the assignment with the
3 Secretary of the Treasury and the Sec-
4 retary.

5 (C) BIDDING AND PURCHASING.—

6 (i) IN GENERAL.—Koniag may use
7 the Koniag Account to—

8 (I) bid, in the same manner as
9 any other bidder, for any property at
10 any public sale by an agency; and

11 (II) purchase the property in ac-
12 cordance with applicable laws, includ-
13 ing the regulations of the agency of-
14 fering the property for sale.

15 (ii) REQUIREMENTS FOR AGENCIES.—

16 In conducting a transaction described in
17 clause (i), an agency shall accept, in the
18 same manner as cash, an amount tendered
19 from the Koniag Account.

20 (iii) ADJUSTMENT OF BALANCE.—The

21 Secretary of the Treasury shall adjust the
22 balance of the Koniag Account to reflect
23 each transaction under clause (i).

24 (4) SPECIAL PROCEDURES.—The Secretary of

25 the Treasury, in consultation with the Secretary,

1 shall establish procedures to permit the Koniag Ac-
2 count to—

3 (A) receive deposits;

4 (B) make deposits into escrow when an es-
5 crow is required for the sale of any property;
6 and

7 (C) reinstate to the Koniag Account any
8 unused escrow deposits if a sale is not con-
9 summated.

10 (c) TREATMENT OF AMOUNTS FROM ACCOUNT.—

11 The Secretary of the Treasury shall—

12 (1) deem as a cash payment any amount ten-
13 dered from the Koniag Account and received by an
14 agency as a proceed from a public sale of property;
15 and

16 (2) make any transfer necessary to permit the
17 agency to use the proceed in the event an agency is
18 authorized by law to use the proceed for a specific
19 purpose.

20 (d) REQUIREMENT FOR THE ADMINISTRATION OF
21 SALES.—

22 (1) IN GENERAL.—Subject to paragraph (2),
23 the Secretary of the Treasury and the heads of
24 agencies shall administer sales described in sub-

1 section (a)(3)(C) in the same manner as is provided
2 for any other Alaska Native Corporation that—

3 (A) is authorized by law as of the date of
4 enactment of this Act; and

5 (B) has an account similar to the Koniag
6 Account for bidding on and purchasing property
7 sold for public sale.

8 (2) PROHIBITION.—Amounts in an account es-
9 tablished for the benefit of a specific Alaska Native
10 Corporation may not be used to satisfy the property
11 purchase obligations of any other Alaska Native Cor-
12 poration.

13 (e) REVENUES.—The Koniag Account shall be
14 deemed to be an interest in the subsurface for purposes
15 of section 7(i) of the Alaska Native Claims Settlement Act
16 (43 U.S.C. 1601 et seq.).

17 **SEC. 5. CERTAIN CONVEYANCES.**

18 (a) INTERESTS IN LAND.—For the purpose of section
19 21(c) of the Alaska Native Claims Settlement Act (43
20 U.S.C. 1620(c)), the following shall be deemed to be an
21 interest in land:

22 (1) The establishment of the Koniag Account
23 and the right of Koniag to request the Secretary of
24 the Treasury to withdraw funds from the Koniag
25 Account.

1 (2) The receipt by a Settlement Trust (as de-
2 fined in section 3(t) of such Act (43 U.S.C. 1602(t))
3 of a conveyance by Koniag of any right in the
4 Koniag Account.

5 (b) AUTHORITY TO APPOINT TRUSTEES.—In estab-
6 lishing a Settlement Trust under section 39 of such Act
7 (43 U.S.C. 1629e), Koniag may delegate the authority
8 granted to Koniag under subsection (b)(2) of such section
9 to any entity that Koniag may select without affecting the
10 status of the Settlement Trust under this section.

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